

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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GODSON ERUCHALU,  
Plaintiff,

vs.

U.S. BANK, NATIONAL ASSOCIATION, *et al.*,  
Defendants.

2:12-cv-01264-MMD-VCF

**ORDER**

**(Defendant's Proposed Discovery Plan and  
Scheduling Order #38 Plaintiff's Proposed  
Discovery Plan and Scheduling Order #40)**

Before the court are Defendants' Proposed Discovery Plan and Scheduling Order (#38) and Plaintiff's Proposed Discovery Plan and Scheduling Order (#40). The court held a hearing on November 27, 2012.

**A. Background**

Plaintiff filed his complaint on July 17, 2012, asserting claims against the defendants relating to a loan and deed of trust. (#1). On September 13, 2012, defendant First Option Mortgage (hereinafter "First Option") filed a motion to dismiss and memorandum of points and authorities. (#23 and #24). On September 20, 2012, defendants Merscorp, U.S. Bank, National Association, US Bank Home Mortgage Outsourcing, and US Bank Home Mortgage filed a joinder (#26) thereto. On September 21, 2012, defendant National Default Servicing Corporation also filed a joinder. (#27). On September 30, 2012, plaintiff filed an opposition to the motion to dismiss. (#30). On October 10, 2012, defendant First Option filed a reply in support of its motion to dismiss. (#32). On October 29, 2012, defendants Merscorp, U.S. Bank, National Association, US Bank Home Mortgage Outsourcing, and US Bank Home Mortgage filed a joinder (#37) to First Option's reply.

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2 On November 2, 2012, defendants filed a proposed discovery plan and scheduling order, stating  
3 that the court should issue a discovery stay pending the resolution of First Option's motion to dismiss  
4 (#23). (#38). Defendants asserts that they attempted to stipulate to the stay of discovery with plaintiff,  
5 but that plaintiff was not in agreement. *Id.* On the same day, the court issued a minute order scheduling  
6 a discovery hearing for November 27, 2012 (#39), and plaintiff filed his proposed discovery plan and  
7 scheduling order (#40). Plaintiff asserts in his discovery plan that the court should not stay discovery  
8 and that discovery should commence "immediately in order to gather the relevant facts in this matter."  
9 (#40).

10 **B. Discussion**

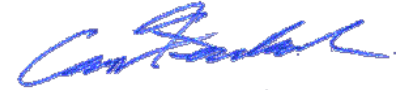
11 Having reviewed the complaint (#1) and the points and authorities for (#32) and against (#30)  
12 the pending motion to dismiss (#23) and joinders (#26, #27, and #37), the court finds a strong likelihood  
13 that a significant portion, if not all, of plaintiff's complaint (#1) will be dismissed as a matter of law.  
14 The court finds that, in accordance with Federal Rule of Civil Procedure 1, the parties should not be  
15 forced to expend resources in discovery until the District Judge decides the legal viability of plaintiff's  
16 claims. *See* Fed. R. Civ. P. 1 (stating that the rules "should be construed and administered to secure the  
17 just, speedy, and inexpensive determination of every action and proceeding."). The court also finds that  
18 the plaintiff will not suffer undue prejudice as a result of the stay. Plaintiff stated during the hearing that  
19 he is currently residing at the property in question and has not made a mortgage payment since  
20 November, 2010. The stay would properly maintain the status quo while the District Judge rules on the  
21 motion to dismiss (#23).

22 Accordingly and for good cause shown,

23 IT IS ORDERED that discovery is STAYED until June 30, 2013. IT IS FURTHER ORDERED  
24 that if any of plaintiff's claims remain after Judge Du decides the Motion to Dismiss (#23), the parties  
25 must prepare a Discovery Plan and Scheduling Order based on a Discovery Cut Off Date set 180 Days

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2 after the Entry of Judge Du's decision on the Motion to Dismiss (#23). The Discovery Plan and  
3 Scheduling Order must be filed within 15 days of Judge Du's decision. If No Decision is Entered by  
4 June 15, 2013, the parties must prepare and file, on or before June 30, 2013, a Discovery Plan and  
5 Scheduling Order with a Cut Off Date of January 15, 2014. The parties must exchange their initial  
6 disclosures within 14 days after filing the Discovery Plan and Scheduling Order.

7 DATED this 27th day of November, 2012.



8  
9 CAM FERENBACH  
UNITED STATES MAGISTRATE JUDGE